IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4119 OF 2005

Mr.Shashi Gopal and Ors. ..Applicants

Vs.

State of Maharashtra & Anr. ...Respondents

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Mr. N.K.Thakore i/b Mr.Prakash Naik Advocate for Applicants
Mr. S.R.Shinde A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : JULY 5,2005

P.C.

1. Heard the learned advocate for the applicants and the learned A.P.P. for the State.

2. The applicants are facing prosecution in Case Nos.905/S/2002, 907/S/2002, 909/S/2002, 910/S/2002, 911/S/2002, 912/S/2002, 915/S/2002 and 916/S/2002 All the cases are under Section 138 of Negotiable Instruments Act. The said cases are pending before the learned Metropolitan Magistrate, 30th Court, Kurla, Mumbai.

3. In the present application, it is prayed that all the eight cases be clubbed together. The applicants have preferred an application before the learned Magistrate for clubbing of the said cases. The said application came to be rejected. The learned Magistrate by order dated 5.2.2005 observed that only three cases of the same parties in a year can be clubbed together and eight cases cannot be clubbed together. The applicants thereafter preferred revision before the Sessions Court. The said revision came to be rejected.

4. Each of these eight cases pertains to one cheque which has been dishonoured. It is contended that all the eight cheques were issued on the same date i.e. 6/5/2002, deposited on the same date i.e. 23/10/2002 and dishonoured on the same date i.e. 25/10/2002 and notices were also issued on the same date in respect of these eight cheques. It is contended that as the cause of action in each of these eight cases arose on the same day, it is necessary to club all these cases together. Reliance has been placed on Section 218 of Cr.P.C. to support the prayer for clubbing of these cases.

In my view, Section 218 of Cr.P.C. deals with framing of charges and the proper section for clubbing of cases would be Section 219 of Cr.P.C. Section 219 of Cr.P.C. stipulates that not more three cases can be clubbed together. In this view of the matter, in my opinion, eight cases in which the applicants are facing prosecution, cannot be clubbed together and at the most only three cases can be clubbed together.

5. The learned advocate for the applicants has placed reliance on an unreported decision dated 17th October, 2002 passed by this Court in the case of **Rajasthani Trading Co. and Anr. Vs. Chemos International Ltd. and Anr. [Criminal Application No. 337 of 2000]** In the said case, one complaint was filed in respect of 27 cheques. The said cheques were issued on the same date, they were deposited on the same date and they were dishonoured on the same date. In the said case, it was contended that one complaint could not have been filed in respect of 27 cheques and separate complaints ought to have been filed in respect of each cheque. It was further submitted that maximum

one complaint could have been filed in respect of three cheques. This Court observed that as all the cheques pertained to the same transaction, the offence must be deemed to have been committed in respect of single transaction and therefore, the accused could be charged and tried at one trial for such an offence.

6. In the present case, the learned advocate for the applicants was unable to say whether the cheques were issued in respect of same transaction. It is always open to the complainant to file separate complaints in respect of each cheque which has been dishonoured. As observed earlier by me, as per Section 219 of Cr.P.C. only three cases can be clubbed together.

7. I have perused the order of the Magistrate and order dated 6.5.2005 passed by the learned Sessions Judge. I find no error in these orders so as to warrant interference.

8. In view of the facts and circumstances of this case and in view of the observations made by the

learned Magistrate that three cases can be clubbed and tried together, the learned Magistrate to proceed accordingly.

9. The application is disposed of.

[V.K.TAHILRAMANI,J.]